

CALL FOR UK GOVERNMENT ACTION ON BRIBERY

In light of the highly critical OECD report on the UK's implementation of the OECD Convention on Combating Bribery, the undersigned trade unions and non-governmental organisations call for the UK Government to take immediate action to meet its international commitments on bribery and corruption.

If the UK Government is serious about tackling global poverty during its leadership of the G8 and EU, and making a real difference to Africa, then it must demonstrate its commitment by taking urgent action to combat bribery by UK companies abroad. The UK Government has a unique opportunity in 2005 to show political will on tackling corruption by implementing the OECD report's recommendations as quickly and as thoroughly as possible.

The recent Commission for Africa report highlighted the devastating impacts of corruption on development in Africa. It called for developed countries to combat corruption among their businesses working in Africa. Despite numerous international anti-corruption conventions, it said, the persistence of corruption suggested that these conventions were not being enforced. *"It is time the international community turned words into action"*, it stated.

This OECD report shows that the UK is among the developed countries that have yet to *'turn words into action'*.

The Report

On 18th March, the OECD Working Group on Bribery published its highly critical evaluation of the UK's implementation of the OECD Convention on Combating Bribery in International Business Transactions and the OECD's 1997 Recommendation on Combating Bribery.

Under the Convention, which has been in force since 1999, the UK is required to take action to deter, detect, investigate and prosecute UK companies, or individuals, that bribe a foreign public official.

The OECD's evaluation criticises the UK for its lack of prosecutions for bribery. It states that *"it is surprising that no company or individual has been indicted or tried for the offence of bribing a foreign public official since the ratification of the Convention by the UK"*, especially given the size and nature of its exports and outward Foreign Direct Investment.

The lack of prosecutions in the UK is not for want of allegations. The report highlights the significant number of allegations reported in the UK media. There are nearly 40 allegations currently on the national register of overseas corruption allegations. Yet only 3 investigations are underway.

The absence of prosecutions and the paucity of investigations raise questions over the adequacy of the UK's commitment to the OECD Convention.

The OECD report identifies fundamental problems with the law, law enforcement systems, and level of resources for dealing with overseas corruption. In particular, the report identifies the following problems:

1. *"Complexity and uncertainty"* of existing anti-corruption laws;
2. Legal barriers to the prosecution of companies;
3. *"Excessive fragmentation of efforts, lack of specialised expertise, lack of transparency ... and problems in achieving coherent action"* among law enforcement agencies dealing with overseas corruption;
4. Lack of resources for investigating foreign bribery cases, processing money laundering reports and handling requests for Mutual Legal Assistance (MLA);

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5. High level of proof required by law enforcement agencies to open an investigation;
6. Potential for 'national interest' considerations, such as damage to the UK economy, to influence the decision to open an investigation or not.

The report states that the UK Government needs to improve awareness of the Convention and facilitate reporting of bribery allegations by whistleblowers, civil servants and companies.

The report further draws attention to the inadequacy of the UK's accounting and auditing provisions; the lack of compliance with the Convention by the UK's Crown Dependencies and Overseas Territories; and the lack of debarments under the DFID's anti-corruption procedures, as well as the recent weakening of the Export Credits Guarantee Department's (ECGD) procedures.

Call for Action

We therefore call on the UK Government to take immediate steps to meet its international obligations on corruption by taking the following actions:

- **Bring forward comprehensive anti-corruption legislation at the earliest possible date in the new parliament;**
- **Introduce new principles for establishing corporate liability for bribery, which reflect the complex decision-making structures of large corporations;**
- **Ensure that official guidance explains the current legal position that UK parent companies are liable for foreign bribery offences committed by foreign subsidiaries, where the parent company authorises, conspires with the foreign subsidiary or is complicit in bribery committed by the foreign subsidiary;**
- **Undertake a review of the options for making parent companies legally liable for foreign bribery offences committed by foreign subsidiaries (with a view to pushing for action at the OECD on closing this loophole), including the establishment of an offence for failure to undertake adequate due diligence;**
- **Establish centralised responsibility for enforcement of overseas bribery by formalising the role of the Serious Fraud Office, introduce evaluation and monitoring of the Serious Fraud Office's performance on investigating and prosecuting bribery offences, and assign a qualified police fraud squad to aid the Serious Fraud Office in its investigations;**
- **Designate appropriate resources to the Serious Fraud Office, City of London and Metropolitan Police Fraud Squads, and the National Criminal Intelligence Services for investigating bribery offences and the UK Central Authority for dealing with Mutual Legal Assistance requests;**
- **Take action to increase awareness of the OECD Convention, including promoting the Convention in the Extractive Industries Transparency Initiative, and encourage reporting of allegations by promoting the laws on whistleblower protection, and encouraging companies and individuals to report allegations to the law enforcement agencies;**

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- Promote awareness of the OECD Guidelines for Multinational Enterprises, which contains a chapter on combating bribery that specifies, inter alia, that the remuneration of agents should be "appropriate and for legitimate services only";
- Take steps to bring the Overseas Territories and Crown Dependencies into line with the principles of the Convention and the Revised Recommendations and in particular ensure the coverage of companies and trusts in the Overseas Territories and the Crown Dependencies;
- Ensure full compliance of accounting legislation reforms with the accounting and auditing provisions of the Convention, specifically prohibiting the activities listed under Article 8, and issue guidance on the reporting obligations of auditors in possible cases of foreign bribery;
- Undertake a review of the effectiveness of DFID and the ECGD's anti-corruption policies at deterring bribery;
- Provide annual reports to Parliament on progress towards meeting the UK Government's international anti-corruption commitments under the: OECD Convention on Combating Bribery in International Business Transactions and the OECD's 1997 Recommendation on Combating Bribery; the United Nations Convention Against Corruption; and the Council of Europe's Criminal Law Convention on Corruption.

Signatories

Action Aid
Amnesty International UK
Campaign Against Arms Trade (CAAT)
Christian Aid
Corner House
Corporate Responsibility (CORE) Campaign
Friends of the Earth
Global Witness
RAID
Tax Justice Network
Tiri
Trades Union Congress
Transport & General Workers' Union
UNISON
War on Want

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